THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

W.P. NO.6242/2006

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Dt. 3-4-2006

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1. Shanmuga Feeds, 3-32/4 CB Road, Chittoor-2. represented by its Proprietor Smt. Jayalakshmi and others. ..Petitioners

V.

1. The State of Andhra Pradesh represented by its Secretary, Marketing Department, Secretariat, Hyderabad and others. …Respondents

THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

W.P. NO.6242/2006

ORAL ORDER

The petitioners who are thirteen (13) in number filed the present writ petition questioning the show cause notice issued by the Special Grade Secretary, Agricultural Market Committee, Chittoor dt. 6-1-2006 to the first petitioner as arbitrary .

By the impugned show cause notice dt. 6-1-2006, the petitioner No.1 was called upon to

produce all accounts, registers and other documents maintained by it in the course of its business or levy of fees under Section 17-C(1) of the A.P(Agricultural and Livestock Markets Act, failure to do so, the said notice will be treated as last notice and necessary prosecution would be launched against the petitioner as per Bye-law No.44(5).

Heard the learned counsel for the petitioners, learned G.P. for Agriculture for R-1 and R-2 and Sri P.Bhanu Prakash, learned Standing Counsel for R-3-Market Committee.

According to the petitioners, they are engaged in poultry and cattle feed business, and they purchase the food grains ie., Maize, Jowar, Bazra, Ragi, Korralu etc., from the States of Karnataka, Maharastra and Tamil Nadu and they are being transported and brought to Chittoor for the purpose of manufacturing cattle and poultry feed. The purchase bills are over stamped recording the receipt of the market cess and in some cases separate receipts are being given along with the bills. Thus, the commodities are subjected to market cess in the respective States, but the same cannot be subjected to market cess in the State of Andhra Pradesh. Therefore, issuing notice is arbitrary and illegal.

Since it is only a show cause notice issued by the third respondent, if the petitioners furnish the proof that the stocks of food grains which they are transporting are actually being imported from outside the State, no fee shall be levied and if any market fee is collected on the product which was not liable to any fee, the petitioners may make an application for refund of the same. In view of the same, it is for the petitioners to produce necessary record and can establish that necessary fee has already been collected in the respective States. Without doing so, straight away they cannot file the present writ petition.

In view of the same, time till 15th April, 2006 is granted to the petitioners for production of records before the third respondent and on furnishing the records evidencing payment of market fee for the goods transported from outside the State, necessary orders shall be passed after giving due opportunity.

With the above direction, the writ petition is accordingly disposed of. No costs.

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A.GOPAL REDDY,J

Dt. 3-4-2006

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